

Attachment C: Proposed Text Amendments to the Flexible Lot Development (formerly known as Residential Cluster Development)

SECTION 1. Article 2, Division 8, Section 2.8.1.6.C, Hillside Development Zone (HDZ) is hereby amended to read as follows:

**Land Use Code
Article 2. ZONES
DIVISION 8. OVERLAY ZONES**

2.8.1 HILLSIDE DEVELOPMENT ZONE (HDZ)

* * *

C. *Flexible Lot Development (FLD).* The purpose of the FLD option in the HDZ is to preserve the sloped areas while encouraging development on the flatter portions of a lot or parcel. Cluster development must meet the requirements of Section 3.6.1, Flexible Lot Development (FLD) project, as well as the following criteria. *(See Illustration 2.8.1.6.C.)*

1. All structures must be located outside the three hundred (300) foot protected peak or ridge setback area, and the protected area must be preserved as a natural area as listed in Section 2.8.1.7.
2. The FLD provision application may be used for either single-family or multi-family development. In order to apply the FLD option, the average cross slope (ACS) of the area to be developed must be less than fifteen (15) percent. This may require excluding steeper slopes as natural areas in order to reduce the ACS of the remaining portion. Such natural areas will be excluded from the ACS calculation but will be included for density calculation. Density is regulated by the underlying zone, based on the entire area.
3. For property within the hillside development zone (HDZ), sloped areas in excess of 15% with an area greater than or equal to 7,000 square feet shall be delineated and set aside as natural undisturbed open space and designated as common area. *See Section 2.8.1.6.C. for additional requirements for FLD projects within the HDZ.*

* * *

SECTION 2. Article 2, Division 2, Section 3.2.3.1.F is hereby amended to read as follows:

**LAND USE CODE
ARTICLE 3. DEVELOPMENT REGULATIONS
DIVISION 2. DEVELOPMENT CRITERIA**

3.2.3 PRINCIPAL STRUCTURE

* * *

3.2.3.1 RESIDENTIAL DEVELOPMENT DESIGNATOR

* * *

- F. *Flexible Lot Development (FLD) Density Matrix.* The following regulations apply to FLD projects. Development Alternative A is for standard FLD projects pursuant to Section 3.6.1.2.B.1 (Standard FLD). Development Alternative B is for FLD projects developed using a maximum density option pursuant to Section 3.6.1.2.B.2 (Maximum Density Option).

FLD Designator	Zone	Development Alternative	Site Coverage (Maximum Percentage Allowable)	Allowable Density	Building Height	Perimeter Yard*
FLD-1	SR	A	8	0.25	30'	BB
FLD-2	RX-1	A	33	1.00	30'	BB
FLD-3	RX-2 & SH	A	33	2.25	25'	BB
FLD-4	R-1 & MH-1	A	50	5.14	25'	BB
		B	70	6.25	25'	BB
FLD-5	MH-2	A	62	8.00	25'	BB
		B	75	15.00	25'	BB
FLD-6	R-2	A	62	8.71	25'	BB
		B	75	22.00	25'	BB
FLD-7	R-3	A	70	36	40'	CC
		B	75	44	40'	CC
FLD-8	O-1, O-2 & O-3	A	75	22.00	25'	BB
FLD-9	C-1	A	75	36.00	25'	CC
FLD-10	C-2 & C-3	A	75	44.00	40'	CC

* * *

SECTION 6. Article 3, Division 6, Section 3.6.1 is hereby amended to read as follows:

Land Use Code
Article III. DEVELOPMENT REGULATIONS
DIVISION 6. DEVELOPMENT INCENTIVES

3.6.1 FLEXIBLE LOT DEVELOPMENT (FLD)

3.6.1.1 Purpose. The purpose of the Flexible Lot Development (FLD) is to provide greater flexibility and creativity in the design of residential development by:

- A. Providing incentives to achieve community goals, such as historic and archaeological preservation, preservation of natural vegetation, development within low-income areas, and in-fill housing projects.

- B. Implementing the goals and objectives of the General Plan, Area Plans, and Neighborhood Plans.
- C. Providing open space that is usable and includes suitably located active and passive recreational amenities, such as trails, walking paths, picnic areas, and playgrounds.
- D. Providing for visual, and where achievable, physical connections to open space areas on adjacent properties.
- E. Efficiently using land and public facilities by means of a more economical arrangement of buildings, circulation systems, land uses, and utilities.
- F. Preserving to the greatest extent possible existing natural open space, environmentally sensitive areas, and landscape features and amenities, such as significant topography, protected peaks and ridges, natural vegetation, washes, riparian areas and floodplains, and integrating such features with structures and other improvements.
- G. Coordinating architectural styles, building forms, and building relationships within the development and with surrounding land development.
- H. Providing high-quality, sustainable development within the city that incorporates “green building” techniques such as water harvesting and passive solar design.
- I. Mitigating the urban heat island effect by requiring such measures as canopy trees throughout the FLD project and other acceptable mitigation efforts.
- J. Creating opportunities for appropriate urban infill development on lots with site constraints.

3.6.1.2 Applicability

- A. The provisions of this Section apply only to residential development as follows:
 - 1. *Standard FLD*. FLD projects other than those utilizing a maximum density option may be developed in the following zones:
 - a. Single-family detached residential development in the SR, SH, RX-1, and RX-2 zones;
 - b. Single-family residential development, attached or detached, in the R-1, MH-1, and MH-2 zones; and
 - c. Single-family attached or detached, and multifamily residential development in the R-2, R-3, O-3, C-1, and C-2 zones.

2. *Maximum Density Option.* FLD projects may be developed to the maximum density permitted by the underlying zoning pursuant to Section 3.6.1.2.B.2 in the following zones:
 - a. Single family residential development, attached or detached, in the R-1, MH-1, MH-2 and R-2 zones; and
 - b. Multi-family residential development in the R-2 and R-3 zones.
- B. FLD Alternatives Residential development is permitted using the FLD provisions under one (1) of the two (2) following alternatives:
1. *Standard FLD – Development Alternative A.* A standard FLD project shall not exceed the density limits for Development Alternative A in 3.2.3.1.F (FLD Project Density Matrix).
 2. *Maximum Density Option – Development Alternative B.* FLD projects that meet at least one (1) of the following development options may develop up to the maximum density shown for the Development Alternative B in Table Section 3.2.3.1.F for the zone.
 - a. *Low Income Housing.* A minimum of ten (10) percent of the project's total number of units or minimum of two (2) units, whichever is greater, are constructed as low-income housing.
 - b. *FLD for the Elderly.* The entire project is designed and constructed only for the elderly. A covenant shall be recorded for the project site stating that the housing is restricted for use by the elderly. Residents of an FLD for the elderly must be at minimum 62 years old.
 - c. *Historic Preservation.* The project includes preservation of a historic site, structure, or landmark or leads to the preservation or scientific study and archaeological documentation of prehistoric or historic buildings or sites, in accordance with the criteria listed in Development Standard 2-10.0. Features eligible for use of this option are those identified in the required archaeological study as meeting the criteria for in Development Standard 2.10.4. A covenant preserving the historical site is required.
 - d. *Additional Open Space Within FLDs 5 Acres or Less.* The project preserves at least fifteen (15) percent more open space than is required by Section 3.6.1.5.C (Common Open Space Requirements). The additional open space must be usable for passive or active recreational uses, such as trails, walking paths, picnic areas, and playgrounds.
 - e. *Additional Open Space Within FLDs Greater than 5 Acres.* The project preserves in a natural state at least fifteen (15) percent more area than is

required by other sections of the Tucson Code. These natural features include, but are not limited to, vegetation, washes, and hillsides.

- f. *Proximity to Arterial Street.* The project is located in the City's Central Core (as defined in the City of Tucson's General Plan) and is on a designated arterial street near transit facilities to promote the use of transit and reduce vehicle trips. The project density does not conflict with any applicable area or neighborhood plan. This maximum density option applies only to those portions of the project site within one-quarter (1/4) of a mile of the arterial street.
- g. *Trail or Wildlife Corridor Dedication.* The FLD provides for dedication of trails or wildlife corridors, or both, that connect to offsite trails and wildlife corridors as approved by the Parks and Recreation Department.
- h. *Green Building.* The project is designed and located to comply with all the energy efficiency requirements listed in the Development Standard 2-10.0.

3.6.1.3. FLD Submittal Requirements

- A. *Tentative and Final Subdivision Plat Requirements.* Platting, submittal, and review requirements shall be the same as provided in Sections 23A-35 (Flexible Lot Development) and Development Standard 2-10.0.
- B. *Development Plan Requirements.* A development plan is required only if a subdivision plat is not required. Development plan requirements shall be the same as provided in Sections 23A-34, and Development Standard 2-05.0.
- C. *Architectural Design Plan and Elevation Requirements.* Architectural design plans and elevations must demonstrate compliance with the design requirements of Section 3.6.1.7.B (Architectural Design) and Development Standard 2-10.0. Approval of an architectural design plan, if applicable, is required prior to issuance of a building permit.
- D. *Privacy Mitigation Plan Requirements.* A privacy mitigation plan, if applicable, is required in compliance with Section 3.6.1.6.A.2 (Two or more story exception) and Development Standard 2-10.3.2.C. Approval of a privacy mitigation plan, if applicable, is required prior to issuance of a building permit.

3.6.1.4 FLD Review and Approval

SEE ATTACHMENT B: DRAFT FLD REVIEW AND APPROVAL PROCEDURES

3.6.1.5 General Development Criteria

- A. *Applicability of General LUC Requirements.* Except as permitted in this Section 3.6.1, all applicable development and performance criteria of the LUC and the applicable development standards apply to an FLD.
- B. *Project Amenities and Site Improvements.*
 - 1. *Single-Phased Construction.* If an FLD is not developed in multiple phases, all amenities and improvements must be completed when, at minimum, fifty percent (50%) of the residential units served by the project amenity and site improvement are constructed.
 - 2. *Multi-Phased Construction.* If an FLD is developed in phases, construction of project amenities and improvements must comply with Section 3.6.1.9.C (FLD Phasing Requirements).
- C. **Common and Functional Open Space Requirements**
 - 1. *Purpose.* To provide common open space that is the visually dominant organizational element and functionally contributes to the project's planning within every FLD project.
 - 2. *Definitions*
 - a. *Common Open Space.* Open space is any portion of the FLD project site that is:
 - i. Not a vehicular use area;
 - ii. Maintained by a homeowners organization in perpetuity;
 - iii. Designated for the benefit of and enjoyment by all the residents of the development; and,
 - iv. Area dedicated to the City for use as a parkland or preserve.
 - b. *Functional Open Space.* Open space that is a designed element of the development and has a functionally described and planned use as an amenity for the direct benefit of the residents of a development. Functional open space amenities may be for an active recreational, passive recreational, or scenic purpose. Examples include nature trails; exercise trails; open playgrounds, such as baseball fields and multi-use recreational areas; picnic areas; and facilities, such as swimming pools, tennis courts; and golf courses.
 - 3. *Common and Functional Open Space Area Requirements*

- a. [SEE ATTACHMENT A: SUMMARY OF PROPOSED REVISIONS TO THE MARCH 21, 2008 DRAFT FOR COMMON OPEN SPACE REQUIREMENT ALTERNATIVES. THESE ALTERNATIVES WILL BE DISCUSSED AT THE UPCOMING INFILL SUBCOMMITTEE MEETING. THE FOLLOWING NON-HIGHLIGHTED SECTIONS SUPPLEMENT THE ALTERNATIVES' REQUIREMENTS.]
 - b. The types of functional open space amenities provided shall be approved by the Department of Urban Planning and Design director for their appropriateness for the mix of residents for which the FLD project is designed.
 - c. Any portion of the FLD project site that has been dedicated to and accepted by a public entity for public use may be included in meeting the common and functional open space area requirements provided in Section 3.6.1.5.C.3.a. Dedications that meet this requirement include, but are not limited to, parks, area of a floodplain, trail, and detention and retention basins that incorporate Multiple-Use Concepts and Aesthetic Design Guidelines described in 3.6.1.5.D.5.b (Detention and Retention Basin requirements).
 - d. The following FLD projects are exempt from Section 3.6.1.5.C.3.a (Functional Open Space Requirements). The following types of FLD projects are subject, however, to the provisions in Section 3.6.1.5.C.5.b (Detention and Retention Basin Requirements):
 1. Located within one-quarter (1/4) of a mile of a City community park of at least fifteen (15) acres, does not require crossing an arterial roadway to reach the park, and is a FLD project with 60 lots or fewer;
or,
 2. Zoned SR, SH, RX-1 or RX-2.
4. *Configuration and Location of Open Space within an FLD Project.*
- a. For FLD projects 5 acres and less, common open space should be configured as contiguous areas, but may also be incorporated into the design of other elements on the site, such as detention/retention basins and buffers, in order to make those areas functional.
 - b. For FLD projects more than 5 acres, common open space must be configured to the greatest extent practical into functional areas. Open space may be divided into smaller open space areas if the areas are functional and distributed throughout the FLD project site so that they are conveniently located for residents of the FLD project.
 - c. Common open space shall be conveniently located to and usable by the maximum number of the residential units on the site.

- d. To the greatest extent possible, common open space should not be comprised of remnant areas that are not usable by residents of the FLD project.
- e. Where the project is located near a public preserve, or can provide connections to open space areas or areas of environmentally or culturally significant features, the open space shall be configured in a manner to preserve this connectivity.

5. *Additional Common Open Space Requirements.*

a. *Natural undisturbed open space (NUOS).*

- 1. NUOS areas include environmentally significant features (as identified in the environmental resource zone; hillside development zone; and, watercourse amenities, safety and habitat zone); culturally significant features (features eligible for National Register status as identified during the cultural resource assessment process); designated floodplains (except where channelized); and, other features identified during the FLD site design plan process.
- 2. NUOS areas shall remain undeveloped and permanently conserved with the following exceptions:
 - a. Trails are permitted in NUOS areas and may count toward meeting functional open space requirements.
 - b. Infrastructure is permitted in NUOS areas when connectivity of services is required, cannot be achieved elsewhere on the site outside the NUOS area using design techniques that minimize the impact on the NUOS, such as limiting crossings and borings.
- 3. NUOS areas may count toward meeting the common open space requirements in Section 3.6.1.5.C.3.a.

b. *Detention and retention basins.*

- 1. To the greatest degree practical, detention and retention basins within an FLD shall be designed as functional open space by incorporating the Multiple-Use Concepts and Aesthetic Design Guidelines in Chapter IV of the Stormwater Detention/Retention Manual, and in accordance with Section 3.7.4.3 and Development Standard 10-01.0. The portion of detention and retention basins with the functional open space amenity, including access to the amenity, may count toward meeting functional open space requirements.
- 2. Detention and retention basins shall be:

- i. located outside the boundaries of a residential lot in a common area;
 - ii. maintained by the homeowners organization; and,
 - iii. located within the perimeter wall, fence, or screening surrounding the FLD project site boundaries.
- D. *Calculation of Maximum Unit Yield.* The method for calculating residential density as described in Section 3.2.10 (Residential Density Calculation) shall be used in calculating the maximum unit yield of FLD projects.
- E. *Flexible Lot Development (FLD) Density Matrix.* FLD projects must comply with the density limits pursuant to the density matrix provided in Section 3.2.3.1.F.

3.6.1.6 Site Specific Development Criteria

- A. *Transition Edge Treatment and Privacy Mitigation*
 - 1. *Transition Edge Treatment.* Where a single-family attached or multi-family FLD project abuts existing single-family residential development, the FLD must provide adequate buffering along the affected FLD perimeter in order to preserve the privacy of the existing residential development. Examples of buffering include, but are not limited to, landscaping, a fence, or a wall. The proposed buffering shall be included as conditions on the approved subdivision plat.
 - 2. *Privacy Mitigation*
 - a. The following are required where multistory residences are proposed adjacent to existing single story residential and the existing residences are zoned R-2 or more restrictive:
 - i. Balconies, windows (except for clerestory windows), or any other feature on an upper floor that overlooks an adjacent residence is prohibited.
 - ii. A privacy mitigation plan is required demonstrating that adequate measures, such as screening, setbacks, building mass, solar access, air circulation, and light access are incorporated into the design of the project to preserve the existing residents' privacy.
 - iii. The privacy mitigation plan will be reviewed at the time of subdivision plat review. Upon approval by staff, the applicant must include notes on the tentative subdivision plat describing the privacy mitigation measures that will be utilized and for which lots the mitigation measures apply.

B. Landscaping, Screening and Wall Requirements.

1. FLD projects must comply with Section 3.7.0 (Landscaping and Screening Requirements) except as otherwise provided by this section.
2. One (1) canopy tree must be provided every forty (40) feet of pedestrian circulation systems, excluding crossings with streets, alleys, and driveways. If providing canopy trees every 40 feet is not achievable, the applicant must:
 - a. Provide the equivalent number of trees that would be obtained using the 40-foot increment measure; and,
 - b. Distribute the trees within the FLD project site along pedestrian circulation systems and within functional open space areas.
3. Landscape plans shall incorporate water-conserving design as defined in Section 3.7.4 and as described in Development Standard 2-06.0.
4. Water harvesting techniques shall be incorporated as part of the landscape design based on the *Water Harvesting Guidance Manual* prepared for the City of Tucson Transportation Department Stormwater Section.
5. Mechanical equipment, utility boxes, irrigation equipment and similar elements shall be screened from adjacent streets exterior to the project and from adjacent existing residential development. Screening shall be architecturally integrated with the overall design of the FLD.
6. If a perimeter wall is proposed along a public right-of-way, it shall be constructed of, or painted with, graffiti-resistant materials. The wall shall incorporate one or more of the following decorative materials:
 - a. tile;
 - b. stone;
 - c. brick;
 - d. adobe;
 - e. a textured material such as stucco or plaster.

C. Perimeter Yards Along FLD Project Site Boundaries.

1. Perimeter yard width requirements along FLD project site boundaries are based on the zoning classification of the adjoining property, as shown in 3.2.6.4 (Perimeter Yard Width Matrix).

2. The required street perimeter yard width along FLD project site boundaries shall be in accordance with Section 3.2.6.5, unless special zoning requirements dictate a greater distance or different point of measurement.
- D. *Perimeter Yards on Interior Lots.* Interior lots must provide perimeter yard setbacks as follows:
1. Except for along street yards, the perimeter yard along interior lot lines required by 3.2.6.4 (Perimeter Yard Width Matrix) may be reduced, subject to the limitations in the Building Codes.
 2. Along interior street lot lines, street perimeter yards are required, in accordance with Section 3.2.6.5. The street perimeter yards may be administratively reduced by the Development Services Department Director if the Director finds that the reduced setback enhances the architectural design or the vehicular circulation in the FLD and a transportation impact analysis is approved by the City's Traffic Engineering division.
 3. Along parking area access lanes (PAALs), setbacks as required in Development Standard 3-05.2.2.B and Department of Transportation design criteria.
- E. *Site Coverage.* FLD projects must comply with site coverage limits in Section 3.2.3.1.F. Site coverage shall be applied in accordance with Lot Coverage requirements in Section 3.2.9 (Lot Coverage).
- F. *Parking.* In addition to applicable regulations in Section 3.3.0, Motor Vehicle and Bicycle Parking Requirements, of the Land Use Code (LUC), the following development criteria apply:
1. Required parking spaces may be located within the individual lots, in common parking areas, on-street within the FLD site, or on-street outside the FLD site provided the on-street parking complies with the requirements of Section 3.3.7.1.E (On-Street Parking Requirements).
 2. Streets within the FLD site for which on-street parking is proposed must be designed with parking lanes to accommodate the proposed parking.
 3. Within the interior of an FLD, alternative access to garages and parking areas may be used subject to the following requirements:
 - a. An alley abutting an existing development shall not be used for parking access.
 - b. The alternative access must be a minimum of twenty-four (24) feet wide, paved, and comply with the Department of Transportation's design criteria.

4. Common parking areas must meet the following requirements.
 - a. No more than sixty (60) parking spaces may be located in any single outdoor parking area.
 - b. Common parking areas must be separated by a minimum of thirty (30) feet utilizing buildings or landscaping.
 - c. The same parking area access lane (PAAL) may provide access to two (2) or more parking areas.
 - d. Curbed areas must provide openings to allow water to flow into landscape areas and water harvesting basins.
 - e. Common parking areas must comply with the design criteria in Development Standards 2-06 for landscaping, 3-05 for vehicular use areas and requirements of Section 3.7.0 of the LUC for landscaping.

G. *Circulation and Connectivity.*

1. The right-of-way and pavement widths for internal ways, common parking areas, streets, roads, or other means of vehicular circulation and for surface drainage serving the FLD shall be in conformance with Section 3.3.7 and Development Standard 3-01.0.
2. All elements of an FLD, including residential units and recreational amenities, shall be connected by a pedestrian circulation system. The system shall be physically separated from the vehicular circulation system, except where the system intersects a parking area access lane (PAAL) or street.
3. Interior pedestrian sidewalks shall connect to sidewalks on abutting streets and to abutting commercial and recreational facilities with adjacent property owner's consent.
4. Bus turn-out lanes and bus waiting shelters must be provided if requested by the City.
5. Barrier Free Access
 - a. For purposes of this section, barrier free access is defined as functional access for semiambulatory and nonambulatory persons.
 - b. Barrier-free access must be provided to all common use areas, including functional open space amenities, parking areas and trails, with the following exception:

- i. Where a functional open amenity(ies) is located within the described boundaries of a detention or retention basin, barrier-free access is required to no more than seven hundred (700) square feet of functional open space amenity(ies) within any one given detention or retention basin.
6. Trails that have current or future linkages to other trails, open space areas or recreation areas shall be provided as determined by the City Parks and Recreation Department.
 - a. Trails must be constructed in compliance with the design criteria established for trails by the City of Tucson Parks Department and Pima County Parks Department.
 - b. Hard and soft surface paths, when required, must have an average separation of at least five (5) feet to allow for landscaping that does not interfere with the paths, except where a reduced width is allowed by the City's Parks and Recreation Department.

H. *Terrain and Grading.*

1. For property within the hillside development zone (HDZ), sloped areas in excess of 15% with an area greater than or equal to 7,000 square feet shall be delineated and set aside as natural undisturbed open space and designated as common area. *See Section 2.8.1.6.C. for additional requirements for FLD projects within the HDZ.*
2. Areas of the site protected in their natural state by environmental resource zone (ERZ), watercourse amenity, safety and habitat (WASH), or native plant preservation ordinance (NPPO) regulations shall be delineated and set aside as natural undisturbed open space as required by these regulations.

3.6.1.7 Individual Lot Development Criteria

- A. *Minimum Lot Sizes.* Within an FLD, the lot size permitted in the zoning district may be reduced, with the following exceptions:
1. Lots in the SR and RX-1 zones must contain a minimum of 18,000 square feet.
 2. Lots in the RX-2 zone must contain a minimum of 12,000 square feet.
 3. All lots developed with a septic tank must contain a minimum of one (1) acre.
- B. *Architectural Design.*

1. *Purpose.* To provide architectural diversity, visual interest, and to avoid monotony in architectural design by requiring variations in such architectural treatments as color, finished materials, massing and rooflines, orientation of units, garages and porches.
2. *Applicability.*
 - a. *General.* The architectural design requirements of this section apply to projects with twenty (20) or more single-family detached residential units.
 - b. *Architectural Variation and Compatibility.* Elevations of single family detached units abutting the following street types are subject to 3.6.1.7.B.4 (Architectural Variation and Compatibility Requirements):
 - i. a public street designated as a collector or arterial street in the Major Streets and Routes Plan; or,
 - ii. a private or public street designed and/or designated as a residential collector street
 - c. *Exceptions to the Applicability of the Architectural Variation and Compatibility Requirements.* FLD projects with the following characteristics are exempt from the requirements of Section 3.6.1.7.B.2.b (Architectural Variation Requirements):
 - i. Residential units are on lots larger than ten thousand (10,000) square feet; or,
 - ii. Where dwelling units are separated by thirty (30) feet or more.
3. *Garage Placement.* No more than fifty (50) percent of detached residential units throughout the FLD shall be designed with garages that protrude from or are flush with the front wall of the living area or front porch of the house and open onto the same street as the main entrance to the unit.
4. *Architectural Variation and Compatibility Requirements.*
 - a. The same architectural elevation shall not be repeated more often than every fourth lot.
 - b. Architectural variation may be accomplished by incorporating a minimum of two of the following design features into the affected elevations: different building footprint orientation, building elevation, garage placement, roof type, color, or architectural style. The applicant must work with the City's Design Examiner to ensure that adequate variation is achieved.

3. *FLD Projects Within National Register Historic Districts.* Elevations subject to Section 3.6.1.7.B.3.a (Elevations Along Certain Roadways) must be compatible with, or complementary to, the design characteristics of the contributing properties to the National Register historic district within the FLD project's Development Zone as described in 6.2.4 (Definition of Development Zone).

3.6.1.8 Management of Common Properties.

The subdivision plat will provide for all common areas through the homeowner's association or joint and several liability of all property owners.

3.6.1.9 FLD Phasing Requirements. An FLD may be phased for construction and development as described below.

- A. The entire FLD must be platted as one (1) project, as setbacks and other FLD requirements are based on the entire FLD site. If the FLD is platted by phase, then each phase must comply with requirements as a separate project, including the following.
 1. Homeowners' association documentation must allow for the annexation of future phases if designed to work as one (1) project.
 2. If access to future phases is designed to be through the phase being platted, right-of-way easements or other acceptable legal instruments shall be provided on/with the plats and homeowners' association documents.
- B. If the FLD contains common areas, the entire FLD shall be subject to an overall set of comprehensive conditions, covenants, and restrictions which establish the character of the development and create an overall homeowner's association. If the documentation for the overall homeowners' association does not indicate responsibility for each phase within the FLD, then the excluded phase shall have its own homeowners' association which will be responsible for owning and maintaining any common area, open space, natural area, or recreation area within the phase.
- C. The developer must submit a document to show how the project amenities and site improvements will be developed in proportion to the number of residential units developed. The site improvements must be designed to function independently for each phase and as each new phase is added.

Such project amenities and site improvements shall be located adjacent to or within developed or developing phases and on property that is abutting or physically connected to the residential development in order to provide access between the amenity and the development it serves.

- D. At no time during the construction of the FLD shall the number of constructed residential units per acre of developed land exceed the overall density for the land area in each phase and as approved by the recorded plat.

SECTION 4 Article 6, Division 2, Sec. 6.2.4-D, is hereby amended to delete the definition of "Developable Area."

**ARTICLE VI DEFINITIONS
DIVISION 2. LISTING OF WORDS & TERMS**

SECTION 5. Article VI, Division 2, Sec. 6.2.3.C, Sec. 6.3.6.F, Sec. 6.2.14.N and Sec. 6.2.15.O are hereby amended to add new definitions, to read as follows:

6.2.3 DEFINITIONS – C

Cluster or Clustering. A site planning technique that concentrates buildings and structures in specific areas on a lot, site, or parcel to allow the remaining land to be used for recreation, open space, or preservation of features or structures with environmental, historical, or other significance.

Common area. Those portions of a site not within the boundaries of a private lot that are set aside in perpetuity as commonly owned and maintained by the residents of a development through a homeowners organization, and designated for the benefit of and enjoyment by all the residents of the development. Common area is comprised of open space, functional open space and areas for infrastructure such as streets, and drainage easements.

Common open space. See Open space, common.

6.2.6 DEFINITIONS – F

Flexible Lot Development. The techniques used to concentrate buildings on a site by allowing for reductions in lot size and flexibility of lot shape dimension and location with the resultant open space being devoted by deed restrictions for one or more uses, such as natural open space and passive and active recreation areas.

Functional open space. See Open space, functional.

6.2.14 DEFINITIONS – N

Natural undisturbed open space. See Open space, natural undisturbed.

Non-motorized recreational trail. An easement used by pedestrians, equestrians, bicyclists (including electric if local regulations permit) and wheelchairs (including

electric). Motorized maintenance vehicles are permitted on trails for maintenance purposes only.

6.2.15 DEFINITIONS – O

Open Space, Common. Common open space is any portion of the FLD project site that is:

- a. Not a vehicular use area; and,
- b. Maintained by a homeowners organization in perpetuity; and,
- c. Designated for the benefit of and enjoyment by all the residents of the development; or
- d. Dedicated to the City as parkland or preserve.

Open space, functional. Open space that is a designed element of the development and has a functionally described and planned use as an amenity for the direct benefit of the residents of a development. Functional open space amenities may be for an active recreational, passive recreational, or scenic purpose. Examples include nature trails; exercise trails; open playgrounds, such as baseball fields and multi-use recreational areas; picnic areas; and facilities, such as swimming pools, tennis courts; and golf courses.

Open space, natural undisturbed. Any area of land that is unimproved and not occupied by structures or man-made impervious surfaces that is set aside, dedicated or reserved in perpetuity as a preservation conservation area for public or private enjoyment. A pedestrian or non-motorized access trail may be located in a natural undisturbed open space. Rights-of-ways and utilities are allowed to cross when the impact of crossing is minimized or is at right angles to the natural undisturbed open space.

6.2.15 DEFINITIONS – P

Pedestrian path. A surfaced walkway, usually of concrete or asphalt, for use by pedestrians.

Project amenities. Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Project amenities include, but are not limited to, open space, natural undisturbed areas, landscaping, common areas, and recreation facilities.

6.2.19 DEFINITIONS – S

Site coverage. The aggregated area occupied by buildings, storage areas, and vehicular use areas within a project site.

Site improvements. Any building, structure, or other object constituting a physical addition to the real property. Site improvements include, but are not limited to, streets, curbs, sidewalks, parking areas, trails, and utilities.

6.2.20 DEFINITIONS – T

Trail. A way designed for and used by pedestrians, cyclists using non-motorized bicycles, and equestrians.

Section 6 All references to “Residential Cluster Project (RCP)” or “RCP” in the LUC, Development Standards, Planning Documents, and in any and all other City plans and regulations are hereby changed to refer to the “Flexible Lot Development (FLD)” or “FLD” option, as appropriate.

Attachment C Continued: Draft Amendments to Chapter 23A-35

Chapter 23A-35 Flexible Lot Development (FLD)

The flexible lot development (FLD) is a development alternative permitted by the Land Use Code (LUC), Chapter 23 of the Tucson Code, in various zoning districts. While the development designator requirements, such as density, building height, setbacks, and lot coverage, are provided in each zone, specific provisions for the design and development of an FLD are found in Section 3.6.1 of the LUC and in Development Standard 2-10.0.

1. *Plat required.* Section 3.6.1.3.A (FLD Tentative and Final Subdivision Plat Requirements) of the LUC requires all FLDs to be platted except as noted in 23A-35.2 (Development Plan required). Platting, submittal, and review requirements are described in Chapters 23A- 35.6 and 23A-35.7 (FLD Platting Procedures) and Development Standard 2-10.0.
2. *Development Plan required.* Section 3.6.1.3.B (Development Plan Requirements) of the LUC requires a development plan from those FLDs where a subdivision plat is not required. Development plan submittal and review requirements are described in Chapter 23A-34 (Development Plan Review) and Development Standard 2-05.0.
3. *Architectural Design Plan required.* Section 3.6.1.7.B (Architectural Design Plan Requirements) of the LUC requires all FLDs to submit an architectural design plan. Architectural design plan submittal and review requirements are described in Chapter 23A-35.8 and Development Standard 2-10.0.
4. *Privacy Mitigation Plan required.* Section 3.6.1.6.A (Two Story Exception Requirements) of the LUC requires FLDs proposing to locate multistory residential units abutting existing single story residential that are zoned R-2 or more restrictive to submit a privacy mitigation plan. Privacy mitigation plan submittal and review requirements are described in Chapter 23A-35.9 and Development Standard 2-10.0.
5. *Notice of Application*
 - A. Public notice that a tentative plat or privacy mitigation plan related to a flexible lot development (FLD) application has been filed and accepted for review shall be sent within five (5) days after acceptance of the application.
 - B. The notice shall include pertinent information about the proposed project, such as name; project location; case number; type of development; site size; residential density; number of stories, where the plat can be viewed by the public; and the address and telephone number of the Development Services Department (DSD). Such notice shall contain a sentence indicating that any person may request further notification of actions concerning the FLD.

C. A minimum period of twenty (20) working days from the date the notice is sent will be provided for response.

D. The notice shall be sent to the following:

1. All owners of property located within three hundred (300) feet of the flexible lot development (FLD) site (any public rights-of-way abutting the FLD site are excluded from the measurement).
2. At least two (2) designated representatives of any neighborhood and homeowners' associations registered with the city and located within one (1) mile of the flexible lot development (FLD) site.
3. Any other person determined by the Development Services Department (DSD) director to be affected by the proposed flexible lot development (FLD).

6. *Projects with a Gross Site Area of Five Acres or Less*

A. *Tentative Plats.* SEE ATTACHMENT B FOR REVIEW AND APPROVAL PROCEDURE ALTERNATIVES

B. *Final Plats.* Final plats for FLD projects with a gross site area of five (5) acres or less are reviewed and considered for approval in compliance with Section 23A-33.1(2) (Subdivision Plat Process – Final plat review).

7. *Projects with a Gross Site Area of More than Five Acres.* Tentative and final plats for FLD projects of more than five (5) acres are reviewed and considered for approval in compliance with Section 23A-33.1 (Subdivision Plat Process).

8. *Architectural Design Plans*

A. Architectural design plans for FLD projects must be approved prior to approval of a building permit. The plans shall include the following:

1. All existing and proposed buildings and structures, including location, size, height, garages, overhangs, canopies, and use.
2. Elevations of those units required by Section 3.6.1.7.B.3.a (Elevations of Units Abutting Collector and Arterial Roadways). The elevations shall demonstrate compliance with Section 3.6.1.7.B.3 (Architectural Variation Requirements).
3. Location and inventory of garages in accordance with Section 3.6.1.7.B.2 (Garage Placement requirements)

- B. **SEE ATTACHMENT B FOR REVIEW AND APPROVAL PROCEDURE**. The Design Examiner will review the architectural design plans for compliance with applicable code and forward a recommendation to the Director of the Department of Urban Planning and Design Department for consideration of approval.
- C. Conditions of the approved architectural design plan shall be included as notes on the tentative, final plat, and/or building permit depending on whichever approval process is happening concurrent with or after approval of the architectural design plan.

9. *Privacy Mitigation Plans*

- A. Privacy mitigation plans shall be submitted with the application for tentative subdivision plat. The privacy mitigation plans shall include elevations, profiles, and/or dimensioned plans of those units triggering the requirements of Section 3.6.1.6.A.2 (Multi-Story Residence Abutting One Story Residences) of the *Land Use Code*. The plans must also include the mitigative measures being proposed to preserve the existing residents' privacy.

- B. *Privacy Mitigation Plans*.

SEE ATTACHMENT B FOR REVIEW AND APPROVAL PROCEDURE

- D. Conditions of the approved privacy mitigation plan such as a description of the mitigative measures that will be utilized and for which lots the mitigation measures apply shall be included as notes on the tentative subdivision plat.

**Attachment C Continued:
Draft Amendment Creating Design Examiner position**

ARTICLE V. ADMINISTRATION

DIVISION 1. POWERS AND DUTIES

* * *

5.1.12 Design Examiner (DE). The Design Examiner (DE) is established to review proposed buildings, structures, landscaping, architectural features, of proposed subdivisions, development plans, and site plans as set forth in the *Land Use Code (LUC)*, Sec. 23 of the Tucson Code and in the Development Compliance Code, Sec. 23A of the Tucson Code.

5.1.12.1 Appointment and Qualifications

A. The City Manager shall recommend a candidate(s) for the position of DE. The Mayor and Council shall appoint the DE.

B. *Qualifications.* The DE shall be one of the following:

1. a registered architect; or,
2. a registered landscape architect

5.1.12.2 Powers and Duties.

A. *Flexible Lot Development (FLD) Projects.* The DE shall review FLD projects for compliance with, but not limited to, Sections 3.6.1.5.C.4 (Configuration and Location of Common Open Space), 3.6.1.6.A.1 (Transition Edge Treatment), and 3.6.1.6.D.2 (Modifications to Street Perimeter Yard Setbacks). The DE will forward a recommendation to the Director of the Development Services Department. The Director shall take into account the recommendations of the DE in the considering approval of the FLD project proposal.

B. *Architectural Design Plans.* The DE shall review architectural design plans for compliance with 3.6.1.7.B (Architectural Design requirements) of the LUC. The DE will forward a recommendation to the Director of the Development Services Department. The Director shall take into account the recommendations of the DE in the considering approval of the FLD project proposal.

- C. *Privacy Mitigation Plans.* The DE shall review privacy mitigation plans for compliance with 3.6.1.6.A.2 (Privacy Mitigation) of the LUC. The DE will forward a recommendation to the Director of the Department of Urban Planning and Design. The Director shall take into account the recommendations of the DE when considering whether a privacy mitigation plan complies with the applicable code and the findings provided in 5.1.12.2.D (Findings for Privacy Mitigation Plans).
- D. *Findings for Privacy Mitigation Plans.* The DE may recommend a project if it meets the following findings:
 - 1. Does not grant variances to the development criteria established in Section 3.6.1 (Flexible Lot Development) and other sections of the Land Use Code where applicable; and
 - 2. Will not be detrimental to public health and safety; and
 - 3. Will not impair an adequate supply of light and air to adjoining properties; and
 - 4. Will not create a nuisance to surrounding properties.
- E. *Conditions.* The DE may recommend conditions on the approval of an FLD to ensure that the design of the FLD mitigates the impact of the FLD and provides suitable transitions to the adjoining existing residential developments.
- F. *Other Responsibilities.* The DE shall perform such other functions as may be required by the *Land Use Code (LUC)*.

* * *